MGN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.112 OF 2000

Capt. Brij Pal Singh Yadav,)
Since deceased by his heirs:-)
1A.Smt. Anjali Brijpal Singh Yadav)
1B.Arpan Brijpal Singh Yadav)
1C. Mrs. Swapnil Rahul Bohre,)..PETITIONERS

Versus

1.Shri Laxmibai Bapu Wani,)
resident of D-53, M.G. Road,)
Lonavala, Taluka Maval, Dist.Pune)
through its P.A. Holder Mr. Khurshid)
Saifuddin Bohri,)
2.The Talathi, Mouje Deoghar, Tal.)
Mulshi, Dist. Pune.)
3.The State of Maharashtra)..RESPONDENTS

Mr. Umesh Mankapure for Respondent No.1.
Mr. V.A. Sonpal, AGP for Respondent Nos. 2 and 3.

CORAM : F.I. REBELLO &
R.M.SAVANT, JJ.
DATED : 20th June, 2007

ORAL JUDGMENT (PER F.I. REBELLO, J.)

. The petitioners were allotted a plot of land by order dated 27th January, 1972. It constituted 2 Hectares of Survey No.12. The petitioners thereafter paid various amounts and their name was also included in the revenue records. It appears that respondent No.1 preferred an appeal in the year 1998 against the order dated 26th May, 1970. Though by then the petitioner along with several other persons had been put in possession they were not made as parties. The learned Tribunal proceeded on the footing that the land is pad and barren land due to rocky nature and as such this land could not have been considered for the purpose of considering the surplus land and in view of that allowed the Appeal by its order dated 11th December, 1998.

The respondent No.1 has also filed a reply and has annexed a copy of the order of this Court in Writ Petition No.4630 of 1998 which was disposed of on 22nd February, 2005. There the petitioners were allotted Survey NO.30. In that case it was found that the order of remand was of no consequences as the land was not put to agricultural use as the lands were not cultivable. In that view the petition was disposed of with the direction as set out therein. In our opinion that judgment would really be of no assistances to the respondent No.1 herein as apart from the fact that the Survey numbers are different it is the case of the petitioner as orally contended by the learned Counsel for the petitioner that the lands are put to agricultural use.

. In that light of the above the impugned order dated 11th December, 1998 in Case No.MRT/CLNG/IX/4/98(0) (c-1/98) to the extent of the petitioners alone is set aside and the matter is remanded back to the Maharashtra Revenue Tribunal for reconsideration and disposal according to law after hearing the petitioner and respondent No.1. Rule made absolute accordingly. No order as to costs.

(**F.I.REBELLO**, J)

(**R.M. SAVANT,J)**